EXCISE

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E.O. 12065: NA
TAGS: AINF, CASC (PEOPLES TEMPLE)
SUBJ: PRIVACY ACT: RECOMMENDATION REGARDING THE HANDLING OF REPORTING ON AMERICANCITIZENS.

1. PEOPLES TEMPLE, JONESTOWN, AND THE ASSASSINATION OF CONGRESSMAN RYAN, HAVE ALL UNDERLINED -- IF UNDERLINGING WERE NEEDED -- THE ESSENTIAL DILEMA FACING NOT ONLY EMBASSY GEORGETOWN SPECIFICALLY, BUT ALL U.S. DIPLOMATIC AND CONSULAR MISSIONS ABROAD IN TERMS OF WHAT CAN AND CANNOT BE REPORTED REGARDING PRIVATE AMERICAN SITIZENS AND THEIR ACTIVITIES SO AS TO SAFGUARD THEIR CONSTITUTIONAL RIGHTS, AS WELL AS THE PROTECTIONS AFFORDED THEM BY THE PRIVACY ACT. IT SEEMS QUITE OBVIOUS THAT IN THE PERIOD SINCE THE ENACTMENT OF THE PRIVACY ACT IN 1974, AND THE ISSUANCE OF GUIDELINES BY THE DEPARTMENT, AS WELL AS OTHER AGENCIES OF THE EXECUTIVE BRANCH, THAT THERE HAS BEEN AN INHIBITION ON REPORTING WHICH MISSIONS MIGHT HAVE DONE ON THE ACTIVITIES OF PRIVATE AMERICANS ABROAD. THIS INHIBITION IS QUITE UNDERSTANDABLE IN VIEW OF THE PERSONAL LIABILITY FEATURE WHICH THE PRIVACY ACT IMPOSES ON INDIVIDUAL OFFICERS SHOULD THEY ENGAGE IN REPORTING ON AMERICAN CITIZENS WHICH IS LATER DEEMED IMPROPER UNDER THE TERMS OF THE

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PRIVACY ACT. IN FACT, EACH OFFICER IS NOW ALMOST OBLIGED TO BE HIS OWN LAWYER IN DECIDING WHETHER OR NOT A PARTICULAR REPORT CONTRAVENES THE SECTIONS OF THE PRIVACY ACT, BECAUSE OF COURSE, MOST MISSIONS ABROAD ARE WITHOUT THE SERVICES OF RESIDENT LEGAL ADVISORS QUALIFIED TO PROVIDE EXPERT ADVICE IN THIS AREA.

2. IN AN EFFORT TO FACE UP TO THIS PROBLEM AND AT THE SAME TIME PRESERVE THE PRIVACY OF AMERICAN CITIZENS AND PROTECT THEIR CONTITUTIONAL GUARANTEES, WOULD THE FOLLOWING PROPOSAL (1) HAVE MERIT, AND (2) BE POSSIBLE UNDER EXISTING LEGISLATION?

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REVIEWED BY [signature] DATE 2/26/81
PORTIONS DENIED AS INDICATED

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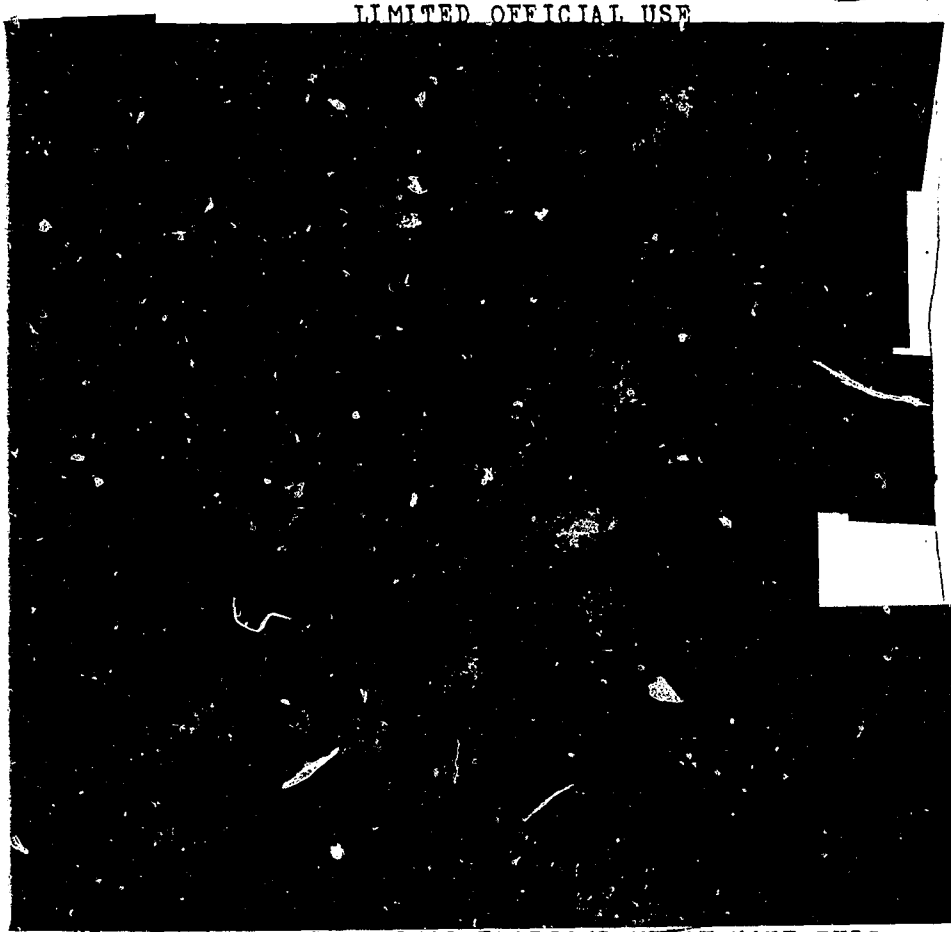

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4. THERE MAY BE LEGAL CONSIDERATIONS WHICH MAKE THIS PROPOSAL IMPRACTICAL: NEVERTHELESS IT IS SUBMITTED FOR CONSIDERATION BECAUSE IT SEEMS ESSENTIAL THAT A WAY BE FOUND TO FREE INDIVIDUAL OFFICERS AND MISSIONS FROM THE INHIBITIONS WHICH NOW RESTRICT REPORTING IN CERTAIN SPECIFIED AREAS REGARDING THE ACTIVITIES OF AMERICAN CITIZENS ABROAD.
5. THIS PROPOSAL MIGHT BE USEFULLY DISCUSSED AT THE FORTHCOMING ARA CONSULAR CONFERENCE. ACCORDINGLY, IT IS BEING REPEATED TO EMBASSY SANTO DOMINGO FOR INFORMATION.
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